



# Shared Solutions

February 2000

Public Service...Employment for the 21st Century

Vol. 7 Issue 1

## Outreach & Diversity

**D**iversity is one of California's greatest assets. That same diversity is reflected in the State civil service work force. It proves that our Equal Employment Opportunity policy is working effectively, and that the State is attracting and employing qualified workers from every segment of California's vast labor force.

**SPB** is charged with responsibility for helping departments address diversity in state service, in compliance with the provisions of Proposition 209.

State Personnel Board member, William Elkins, has been appointed to the Governor's Task Force on Outreach and Diversity. The task force of business, community and governmental officials is developing recommendations for the governor on outreach efforts for education, contracting and other employment programs. Board member Elkins is co-chair of the employment subcommittee. The task force is expected to submit recommendations to the governor this Spring.

Mr. Elkins, of Los Angeles, served as special assistant and deputy mayor to Mayor Tom Bradley from 1973 to 1993. Since 1973, he has served as Program Officer and Vice President for the Board of Directors of the Columbia Charitable Foundation. He holds a BA degree from the University of California, Los Angeles, and a bachelor of law degree from Southwestern University School of Law.



## STRENGTH IN DIVERSITY

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# JUDGE DECLARED:

## UNIT 8 MOU

### UNCONSTITUTIONAL

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On December 22, 1999, Judge Lloyd Connelly of the Sacramento Superior Court ruled that the grievance and arbitration provisions of the Unit 8 Memorandum of Understanding (MOU) violate Article VII, section 3(a) of the California Constitution to the extent they preclude the ultimate and meaningful review of disputed civil service disciplinary actions by the State Personnel Board (SPB).

The Court declared that:

The Legislature may not, as it has done by statutorily implementing the Unit 8 MOU grievance and arbitration procedures, prevent the SPB from reviewing disciplinary actions and accomplishing the constitutionally mandated purpose of such review, to ensure that the actions have not resulted from political patronage or other arbitrary action inconsistent with the merit principle.

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**Shared Solutions** is published quarterly by the CA State Personnel Board, and can be accessed via the Internet at: [www.spb.ca.gov](http://www.spb.ca.gov).

**Your input is very important to us!**

Please drop us a note and let us know if Shared Solutions is providing the information you want to know about.

Send your correspondence to:  
CA State Personnel Board  
ATTN: Evan Gerberding  
P.O. Box 944201  
Sacramento, CA 94244-2010

# L.E.A.P.ing



## Forward...

*Recently released* TWO new Limited Examination Appointment Program (LEAP) examination lists! Research Analyst (General) and Word Processing Technician

*Other lists available:* 1) Building Maintenance Worker; 2) Carpenter; 3) Groundskeeper; 4) Painter I; 5) Maintenance Mechanic; 6) Electronics Technician; 7) Information Systems Technician; 8) Programmer I; 9) Computer Operator; and 10) Staff Services Management Auditor.

*Continuous Filing* for LEAP Janitor testing is moving forward. Applications are being accepted on a continuous basis and an eligible list should be available in January 2000. Applications will be accepted on a continuous basis and processed quarterly.

## Currently in Process:

Office Assistant (General and Typing) and Program Technician. Look for these exam lists to be available early next year.

*Coming up...* the Account Clerk II is scheduled to take place with a final filing date scheduled for the spring of 2000. Watch for further details on upcoming LEAP testing bulletins for further details by checking the SPB web site at [www.spb.ca.gov](http://www.spb.ca.gov).

*Utilize* LEAP lists! LEAP lists provide hiring departments with a viable resource in expanding qualified candidate pools. For questions concerning current or upcoming LEAP examinations, please contact James Likes at (916) 653-1163 or via the Internet at [jlikes@spb.ca.gov](mailto:jlikes@spb.ca.gov).

# Employment of Persons with a Disability

Representation for persons with a disability in State service is 7.6%, while California labor force representation is estimated to be 11.4%. State departments need to do more to ensure equal employment opportunity for persons with disabilities. At a time when it is becoming increasingly competitive among all employers to recruit qualified workers, the State cannot afford to overlook qualified workers with disabilities.

Some of the important actions that departments can take to improve their representation of employees with disabilities are the following:

- ➡ **Monitoring** departmental hiring to ensure that applicants with disabilities are being considered;
- ➡ **Setting** an annual employment goal and working to achieve it;
- ➡ **Reviewing** job requirements to ensure they are free of discriminatory barriers;
- ➡ **Initiating** appropriate outreach efforts to attract qualified workers with disabilities;
- ➡ **Giving full consideration** to hiring qualified candidates on Limited Examination and Appointment Program (LEAP) lists;
- ➡ **Providing** reasonable accommodation to job applicants and employees when needed;
- ➡ **Having** an active and effective Disability Advisory Committee;
- ➡ **Resurveying** departmental employees at least every five years to update information on how many have a disability; and
- ➡ **Providing** disability sensitivity training to managers and supervisors.

SPB staff are continually looking for ways to better assist departments with their efforts to improve representation. Recent improvements that we have made include expanded LEAP testing to provide new names of qualified persons with disabilities to departments, and modification of the certification system to facilitate departments automatically receiving the names of LEAP candidates.

For a list of resources available to State departments that can help in making sound reasonable accommodations for persons with disabilities, please see page 11.



## DRUG USE STANDARDS FOR PEACE OFFICERS



### A PROPOSED CHANGE...



In its meeting on November 2, 1999, the State Personnel Board adopted a proposed rule change relating to drug use by peace officer candidates. The current disqualification period for candidates applying for participation in State civil service examinations for peace officer classifications who disclose, or whose background investigation reveals, that they have feloniously used drugs at any time is ten years. The proposed action would reduce the disqualification period from ten years to five for candidates who have feloniously used drugs at any time from age 18 through age 22. This action must be approved by the Office of Administrative Law to become effective. For more information on this subject, please call the Chief Counsel's Office at (916)653-1403.

## STATEWIDE DISABILITY ADVISORY COUNCIL

The Statewide Disability Advisory Council (SDAC) serves as an advisor to the State Personnel Board and its Executive Officer on disability employment and related issues. It also serves as a technical assistant and resource to State departments and their Disability Advisory Committees (DAC's) on disability issues. The membership of SDAC consists of representatives from 80 departments, specifically DAC members and/or staff from Equal Employment Opportunity offices.

**SDAC Guide to Emergency Evacuation Procedures for Employees with Disabilities** handbook has been completed! The members and guests of SDAC met on December 1, 1999 in the Old State Library and Courts Building to celebrate. The publication was the conclusion of two years' worth of collaboration and research by several volunteers from the SDAC. Awards were presented as a token of appreciation, and one of which was presented to Walter Vaughn, Executive Officer of the State Personnel Board, the honored guest and speaker at the celebration. Walter was recognized for his support and assistance with printing of the publication which will be available to all State agencies.

### **LEAP Certification List Changes:**

SDAC also recognized Walter Vaughn's contribution in facilitating changes to the request process for LEAP certification lists. This change was made after a review found that in over 60% of the certification requests made, departments had not chosen to receive the LEAP lists for comparable classes. Effective August 1999, departments no longer have the option to reject the LEAP list when requesting names from a non-LEAP civil service eligible list. Departments were notified of this change and instructed on procedures to acquire the list through the on-line system.

### **Successful, Successful, Successful...**

SDAC also congratulated Lynda Bardis, President of Disabled In State Service (DISS), for its successful training conference and career held in Sacramento in November. The conference theme, "**A Manager's Tool Kit For Success...Hiring and Supervising Employees With Disabilities**", was attended by numerous State managers and supervisors. SPB Selection and Training staff assisted with workshops and the career fair. Many other State agency staff were also on hand throughout the day to issue information and pamphlets to members of the disability community who attended the job fair.

**The Recruitment Guide** is another item targeted for completion. Terry Snyder heads this task group involved in developing a pamphlet for departments to use when conducting or attending job/career fairs. It will provide a checklist for recruitment of people with disabilities. The final draft was distributed for review and will be completed soon.

**A LEAP Utilization Work Group** has been organized. This group of SDAC volunteers is developing a workshop to identify the process for hiring LEAP candidates. The workshop will be aimed at providing information to managers, supervisors, and personnel officers who are involved in the hiring process. The group hopes by providing statewide training and information to hiring authorities, they can dispel some of the myths and reluctance to hire the disabled.

Those interested in attending an upcoming meeting can contact Les Treece-Sinclair, Chairperson, at 263-8682.



## TV&C Tidbit



### **Using Test Items from an Item Bank**

The State Personnel Board offers exam items from the Western Region Item Bank (WRIB) as a resource to exam analysts developing multiple choice exams. It is important to keep in mind however, that these item bank items should be considered only a starting point for exam analysts developing an exam. Because the quality control over the items in the item bank is minimal, exam analysts using WRIB items in a verbatim manner risk compromising the reliability and validity of their exam. Most, if not all, WRIB items must undergo extensive revision to improve their quality, as well as to ensure they are applicable for the job class for which the exam is being developed. Item analysis history data, which accompanies most WRIB items, should be viewed with caution since little is known about the candidate groups or the job classifications for which the items have been previously used.

# **MANAGE** THE CONFLICT IN YOUR WORKPLACE

## **THROUGH USE OF SPB'S STATE EMPLOYEE MEDIATION PROGRAM**

**H**ow many times have you heard supervisors and managers bemoan the fact that the otherwise talented employees they supervise just cannot seem to get along? How much time is wasted by employees engaging in workplace gossip about interpersonal conflicts in the workplace? How much time and money is expended in trying to resolve these conflicts through traditional dispute resolution processes (e.g. adverse actions, equal employment opportunity complaints, worker's compensation claims for stress, grievances, administrative appeals, lawsuits) How many dollars are ultimately paid out as settlements or judgments in these cases that more often than not do not go away?

**S**PB's State Employee Mediation Program is experienced in resolving just these types of disputes. Our experience has demonstrated that departments using mediation as an early intervention tool to manage interpersonal disputes save both time and money and experience better morale in the workplace. To date we have mediated over 135 workplace conflicts with a written resolution rate of over 90%.

In November 1999, SPB trained an additional 21 state employees and employee representatives to be volunteer mediators for the SPB's Employee Mediation Program. The class got rave reviews. These volunteer mediators will sit on a two-person mediation panel together with a very experienced senior mediator to mediate disputes in departments other than their own.

Most of the departments listed here are "participating departments," meaning they have participated in our mediation training certificate program. SPB has asked each participating department to designate a "gatekeeper." The gatekeeper is responsible for marketing the program within their organization, and for referring cases to SPB's intake process. Employees who want to access the program should be referred to their organization's gatekeeper who will assess the appropriateness of the dispute for mediation, contact the other disputants to get their agreement to mediate, and communicate with SPB intake personnel.

The following is a list of departments and employee representative groups that have referred one or more disputes, or have otherwise participated in SEMP:

Aging  
Alcoholic Beverage Control  
Board of Control  
Building Standards Commission  
Forestry and Fire Protection  
Integrated Waste Management Board  
Caltrans  
Chiropractic Board  
Community Services and Development  
Consumer Affairs  
Conservation Corps  
Contractors State License Board  
Corrections  
Criminal Justice  
Developmental Services  
Education  
Energy Commission  
Fish and Game  
Food and Agriculture  
General Services  
Health and Welfare Data Center  
Health Services  
Integrated Waste Management Board  
Justice  
Motor Vehicles  
Office of Administrative Hearings  
Pest Excursion  
Prison Industries Authority  
Social Services  
State Compensation Insurance Fund  
State Personnel Board  
Student Aid Commission  
Toxics  
Trade and Commerce  
Veteran's Affairs  
Water Resources



California State Employees Association  
Association of California State Supervisors  
California Correctional Peace Officer's Association

If you would like your department to become involved or more involved in the program or want to learn more about the program, please contact: Elise S. Rose at (916)653-1403 or Bill Heal at (916) 653-0443. To refer a case to mediation, contact Dorothy Smith at 653-1749 or Stacey Garcelon at 653-0350. Additional information can be found on SPB's website at [www.spb.ca.gov](http://www.spb.ca.gov).



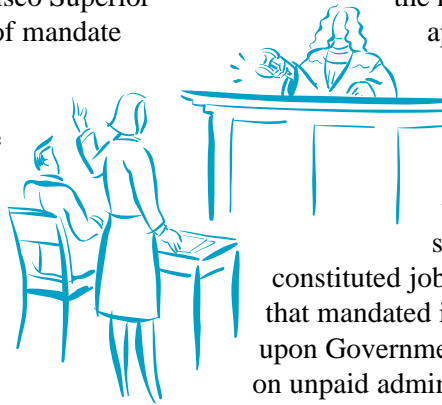
# PRECEDENTIAL DECISIONS

## **Ming Liu (1997) SPB Decision No. 97-02**

The Third District Court of Appeal has upheld the Board's decision in this case, reversing a prior decision of the Sacramento Superior Court that had granted a petition for writ of mandate overturning the decision. Thus, Ming Liu remains valid SPB precedent unless overturned by a higher court.

## **Jesse Brown (1999) SPB Decision No. 99-02**

On December 7, 1999, the San Francisco Superior Court has granted a petition for writ of mandate reversing the Board's denial of appellant's appeal from constructive medical termination in this case. The court decision finds that appellant's due process rights were violated when the Department of General Services placed appellant on non-work status after a fitness for duty report declared appellant was not fit for duty in any position within the Department. The superior court decision is not yet final and is subject to appeal to the California Court of Appeal.



## **Precedential Decision No. 99-09**

(Petition for Rehearing pending)

Appellant, a Correctional Officer with the Department of Corrections, was dismissed for numerous incidents of misconduct. While sustaining the dismissal, the Board also addressed an important Skelly issue: whether appellant was entitled to an award of backpay as a result of the Department's having amended the notice of adverse action on the first day of hearing. In reviewing this issue, this Decision overturned the Board's precedential decision in Walter Masters (1995) SPB Dec. No. 95-13 to the extent it was inconsistent, and set forth guidelines for determining when an amendment of an adverse action will require a new Skelly meeting and a new effective date. Specifically, this Decision states that, if an employer amends an adverse action to include new charges, the employee must be offered a new Skelly meeting, and the effective date of the adverse action must be changed to a date no earlier than the day after the new Skelly meeting is held. The Decision in this case finds that, since the amendment to the notice of adverse action did not include any new charges, but merely added more details to the existing charges, appellant was not entitled to a new Skelly meeting or a new effective date; she was entitled only to additional time pursuant to Government Code § 19575.5 to prepare her defense to the added factual allegations.

## **Precedential Decision No. 99-10**

Appellant, a janitor with the Department of Mental Health, was charged with driving into the parking lot of Patton State Hospital, hitting a sign and driving away. A CHP officer arrested appellant for hit and run driving, driving under the influence, and driving with a suspended license. As a result of his arrest, appellant was inexcusably absent without leave on the date of the incident. Relying upon Government Code § 19574.5,

the next day, the Department placed appellant on unpaid administrative leave, and, three weeks later, dismissed him retroactively to the date it had placed him on leave.

In this Decision, the Board found that, because the Department did not show that appellant's misconduct constituted job-related extraordinary circumstances that mandated immediate removal, it could not rely upon Government Code § 19574.5 to place appellant on unpaid administrative leave and dismiss him retroactively. The Board found that the appropriate remedy for this improper reliance upon Government Code § 19574.5 is to change the effective date of discipline to the day after appellant's Skelly meeting, and to award appellant backpay and benefits up through and including the date of the Skelly meeting. The Board also found that the requirement in Government Code § 19574 that an appointing power must file a notice of adverse action with SPB within 15 days after the effective date of the adverse action is directory, and not mandatory, and the Department's failure to comply with this requirement did not invalidate the adverse action or warrant Skelly damages. Finally, the Board modified the penalty for the proven misconduct to a 10 working day suspension.

## **Precedential Decision No. 99-11**

Appellant was dismissed from her position as a Youth Correctional Officer with the Department of the Youth Authority for failing to disclose on her pre-employment health questionnaire that she had been hospitalized briefly on two occasions for psychiatric reasons. Six years after she had been employed by the Department, appellant filed a claim for workers' compensation benefits arising out of a claim of sexual harassment. As part of the workers' compensation proceedings, the Department required appellant to undergo a psychiatric evaluation. The psychiatrist sent the Department the results of the evaluation, which revealed that, approximately ten years earlier, appellant

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The Court further found that: while an employee may forgo any review of a disciplinary action by choosing not to appeal, by settling an action, or by failing to appear at a hearing,

...neither individual civil service employees nor their collective bargaining representatives may reject or waive SPB review in favor of alternative procedures such as the Unit 8 MOU grievance and arbitration procedures.

The Court expressly declined to reach the issue of whether the use of private arbitrators in lieu of state administrative law judges violates the restriction in Article VII against contracting outside the state civil service.

SPB participated in the court proceedings initiated by the Association of California State Attorneys and Administrative Law Judges (ACSA), who claimed that the MOU provisions constituted unlawful contracting out of work performed by SPB administrative law judges. After the Court raised the issue of SPB's constitutional jurisdiction, SPB filed a "friend of the court" brief supporting ACSA's position that the provisions and implementing legislation also violated SPB's constitutional mandate to "review disciplinary actions." Judge Connelly's decision prohibits DPA and the CDF Firefighters from implementing the Unit 8 MOU grievance and arbitration procedures unless and

until provisions are made in the procedures for SPB's ultimate and meaningful review of disputed civil service disciplinary actions resolved by grievance or arbitration pursuant to the procedures.

Other MOUs for other bargaining units contain provisions similar to those in the Unit 8 MOU. What will become of those provisions is open to question.

## Know anyone who needs a Job?



Tell them about SPB's Lunchtime seminars!  
Essential information to update those  
job search skills!

### "How to Get a State Job, Read an Exam Bulletin & Complete a State Application"

Mar. 17, May 12

### "How to Prepare A Resume"

Mar 31, May 26

### "How to Prepare for an Interview"

Feb. 11, Apr. 14, June 9

### "Limited Examination & Appointment Program"

Feb. 25, Apr. 28, June 23

Fridays Noon to 1:00

\$5.00 materials fee

For more information contact 653-1502.

*(Psssst....)*

## TestTalk

### A PROFESSIONAL DEVELOPMENT PROGRAM

The Test Validation and Construction (TV&C) Unit is continuing its offering of *TestTalk*, a lunch-hour, drop-in program providing testing professionals with opportunities to expand their testing expertise, share ideas, and network with other testing professionals. *TestTalk* sessions are held at the State Personnel Board, 801 Capitol Mall, Room 150. As always, no pre-registration is necessary – simply join us!

### DATE

### TEST TALK 2000 TOPICS

March 15	"Essentials of Job Analysis" Half-Day <b>FREE!</b> Seminar 8:30am to Noon
May 24	"Recruitment Strategies in a Shrinking Labor Market"
July 26	"Biodata Instruments for Selection: An Overview of Theory and Use"
Sept. 13	"Work Characteristics Inventory: A Behavioral Approach to Assessing Conscientiousness"
Nov. 15	"Latent Image Simulation Testing: An Innovative Approach to Assessment"



## LIGHTS, CAMERA, APPLICATION!

The State Personnel Board is working with a video production company, Cal Image Productions, to produce a new, refreshed version of the *How to Get a State Job* video. Taping begins in February and the project should be ready for viewing in March or early April.

The updated tape will feature a spokesperson taking job seekers through the step-by-step process of researching examination information, filling out a state application and preparing for interviews. The video will be shown at job fairs and other recruitment events, as well as in the State Personnel Board's lobby. The new tape promises to be both fun and fundamental.



## 1999 Legislative Changes to the Civil Service Act

### STATE PERSONNEL BOARD'S OMNIBUS BILL SB 1073

On September 1, 1999, Governor Davis signed SB 1073, an omnibus bill introduced by Senator Ortiz and sponsored by the State Personnel Board (SPB), designed to make a variety of adjustments to clarify the State Civil Service Act and related laws. These changes will primarily impact those who practice before SPB.

Some of the more significant changes<sup>1</sup> affecting SPB's quasi-adjudicatory function are summarized below:

SB 1073 amends Government Code § 18710 to provide both state agencies and employees more options when they seek either clarification or enforcement of decisions or orders issued by SPB. Specifically, the bill allows SPB: (1) to issue further findings, after investigation, clarifying or interpreting an earlier SPB order or decision; and (2) to issue further findings, after investigation, as to whether any party has failed to comply with an earlier SPB decision or order. If it finds that there

was no good cause for the refusal of a party to obey an order, SPB may issue a further order consistent with those findings. That order could then serve as a basis for an aggrieved party to go into court to compel compliance. An aggrieved party may also go to court in lieu of requesting SPB to make further findings.

SB 1073 amends Government Code § 19253.5, the medical termination statute, to require that state agencies apply to the Public Employees' Retirement System (PERS) for disability retirement for any employee who, for medical reasons, is unable to perform the duties of any position within the agency and is eligible for, and does not waive, disability retirement. Under the new law, the state agency must give the employee 15 days written notice of its intention to file an application for disability retirement on the employee's behalf, and a reasonable opportunity to respond prior to filing that application. Upon filing the disability retirement application with PERS, the state agency may remove the employee from the job and place him or her on involuntary leave status. If the

employee is placed on involuntary leave status while the application for disability retirement is pending before PERS, and the employee exhausts all his or her sick leave and vacation credits before PERS makes a decision, the agency must pay to the employee a temporary disability allowance based upon what the employee would receive if the disability retirement application were approved by PERS. If PERS ultimately grants the disability retirement application, PERS will reimburse the state agency for any temporary allowance the state agency has paid pending PERS's determination. If PERS denies the disability retirement application, the state agency must reinstate the employee with all lost backpay and benefits, but may deduct from any backpay any temporary disability allowance that was paid. SB 1073 authorizes SPB to award back pay and benefits when SPB overturns an appointing power's decision under Government Code § 19585, SPB's non-punitive termination statute, to terminate, demote, or transfer an employee who fails to maintain the requirements for continuing appointment,

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# What's New on the SPB Web

The last newsletter cycle (about 3 months) has seen some major project start-ups on the SPB Internet servers.

## **WEB VPOS**

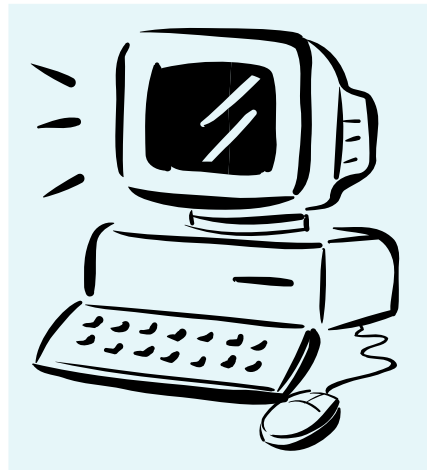
First, or at long last, we are converting the Vacant Position Database (VPOS) system to a Web application. The new WVPOS input and search system is up and running and we are strongly encouraging departments to use the new Web input system at <http://www.spb.ca.gov/vadmin>. In November, we sent a letter to all personnel officers explaining the new system and describing how to sign up. If your department didn't receive the letter, it is available at [www.spb.ca.gov/wvpos.txt](http://www.spb.ca.gov/wvpos.txt).

We expect that the Teale mainframe input system will be discontinued sometime early next year, and are working with them to ensure a smooth transition. HWDC has already discontinued the mainframe VPOS search system, and we are not sure what plans Teale has for their Profs users. In any event, it's clear that we are moving to an Internet only VPOS, and all departments should be planning for that eventuality.

We have received several inquiries from departments about getting the vacancy data and/or programs from us for use on their internal networks. If you are interested in providing your own VPOS search system internally, please e-mail [jdeterman@spb.ca.gov](mailto:jdeterman@spb.ca.gov) with a description of your needs.

## **AUTOMATED SPB MAIL SYSTEM**

As we mentioned in the last newsletter, we have installed an automated e-mail system at SPB for notifying you of new policy memos, precedential decisions, Internet updates, etc. We now have over 500 subscribers and growing.



Some answers to questions that keep popping up:

This is a long-term project to completely automate our mail room and consolidate our mailing lists. We do not intend to discontinue our regular paper mailings until the project is complete and we are assured that the right individuals are receiving the documents they require.

At present, if you sign up for e-mail notification, you will still receive paper copies from the mail room using their existing mailing lists. We will soon start working on merging



our mail and e-mail systems so that duplicate mail doesn't happen unless you want it to.

We have discontinued the option to receive the document as an attachment to e-mail. We have found that all the documents we are announcing via the new e-mail system are available on our website in both Word and Acrobat formats. It makes sense to provide a link in the e-mail notification to the Internet location of the document so our users can access the document in whatever format is preferable to them.



such as licenses, certificates, and other professional qualifications.

SB 1073 also clarifies SPB's authority under Government Code § 18672 to issue subpoenas to compel attendance at an SPB hearing or to compel the production of documents, and the authority of any party who has obtained a subpoena from SPB to go to court to enforce that subpoena.

<sup>1</sup> SB 1073 also contains provisions amending existing laws governing civil service testing, selection, and upward mobility.

**CALIFORNIA WHISTLEBLOWER  
PROTECTION ACT  
AND RELATED LEGISLATION**

The Governor has also signed SB 951, a bill introduced by Senator Hayden to protect from retaliation state employees who have either disclosed improper governmental activities or refused to obey illegal orders. SB 951 amends the Improper Governmental Activities Act (Government Code § 8547 et. seq.) and renames it the California Whistleblower Protection Act.

Prior law protected employees who disclosed improper governmental activities to the State Auditor. This bill eliminates the requirement that a disclosure must be to the State Auditor in order to be protected.

This bill substantially shifts and changes the current burdens of proof imposed upon employees and state agencies in whistleblower retaliation actions. This bill provides that, in an adverse action or other administrative proceeding, the employee must show by a preponderance of the evidence that retaliation for disclosing an improper governmental activity or refusing to obey an illegal order was a "contributing factor" in the agency's actions against the employee. Once the employee has made this showing, the burden then shifts to the state agency to show by "clear and convincing" evidence that the adverse action would have occurred for legitimate and independent reasons even if the employee had not made a protected disclosure or refused to obey an illegal order. If the state agency cannot meet this burden, the employee will have a complete affirmative defense to the adverse action.

Under the bill, if a state agency finds that a supervisor or manager has illegally retaliated against an employee for making a protected disclosure of improper governmental activities, the agency must bring adverse action against that supervisor or manager. If the agency fails to initiate such action, SPB must initiate it.

After exhausting his or her administrative remedies before SPB, an employee or applicant for employment

who claims retaliation may file an action in court against any person who has intentionally engaged in retaliation, and obtain damages, punitive damages and attorneys' fees. In addition, any person found to have intentionally engaged in retaliation is subject to a fine not to exceed \$10,000 and imprisonment not to exceed one year. The Governor has also signed SB 377, which provides additional whistleblower retaliation protections for employees of a department, board or authority under the Youth and Adult Correctional Agency (YACA). This bill requires that any YACA employee who intentionally retaliates against another YACA employee who discloses improper governmental activities or cooperates in the investigation of improper governmental activities shall be suspended for at least 30 days. The bill also provides that should SPB choose to reduce the penalty imposed, the reasons for the reduction must be in writing. In addition, SPB may refuse to examine or certify for state employment anyone who has been determined to have engaged in retaliation against a whistleblower.

## **MAKE CALIFORNIA COUNT CENSUS DAY IS APRIL 1, 2000**

Every 10 years, the U.S. Constitution requires everyone in the United States to be counted. In mid-March, you will be mailed the official census questionnaire. The census is one of America's most significant historical events. The year 2000 will be the 22<sup>nd</sup> census in America since the first census was conducted in 1790.

Census information is used to make important decisions, including government expenditures for health care, roads and schools. In the previous census in 1990, California had the largest "undercount" (people missed by the census) compared to all other states in the nation. As a result, we lost an estimated \$2.2 billion in federal funds that rightfully should have been spent in California, primarily on health care for the elderly. If Californians do not fully participate in the 2000 census, we could lose over \$3 billion in federal funds during the next decade.

Your census information is totally confidential. The U.S. Census Bureau is strictly prohibited from sharing personal census information with any other individuals or organizations, public or private. Your privacy is guaranteed by law.

It's your future. Don't leave it blank. When you receive your official census questionnaire in March, take a few

*Continued on page 12*

State departments are required by law to consider and provide reasonable accommodation to applicants and employees who are disabled, if needed to take an exam or perform their job. Federal laws include: the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990 (ADA) and the Pregnancy Discrimination Act of 1978. State laws include: the Civil Service Act and the Fair Employment and Housing Act. The following is a list of some of the resources available to State departments that can help in making sound reasonable accommodations for persons with disabilities.

**SPB Reasonable Accommodation Coordinator**

(916) 653-1262 or TDD (916) 653-1498

**Department of Rehabilitation, American with Disabilities Act Implementation Unit**

(916) 263-8674

**Governor's Committee for Employment of Disabled Persons** (916) 654-8055 (Voice/TDD)

**Job Accommodation Network of America**

West Virginia University 1-800-526-7234

**Guide for Implementing Reasonable Accommodation**

(5/1992) State Personnel Board (916) 653-1579

**Technical Assistance Manual on the Employment Provisions (Title I) of the ADA (1/92) prepared by the U.S. Equal Employment Opportunity Commission**

1-800-669-4000

***Continued from page 6***

had been hospitalized briefly on two occasions for symptoms of depression. The Department dismissed appellant for failing to disclose these hospitalizations on her pre-employment questionnaire.

In this Decision, the Board finds: 1) that the Department violated the Federal Rehabilitation Act when it had appellant fill out the pre-employment health questionnaire prior to making her an offer of employment; 2) that the evidence presented by the department to support the dismissal should have been barred as the California Confidentiality of Medical Information Act prohibits an employer from using or disclosing medical information it obtains absent specific written authorization; and 3) that the right to privacy found in Article I, Section 1, of the California Constitution further prohibits the department's use and disclosure of such information. The decision further finds that even if these laws did not exist to protect appellant from the Department's use of her confidential medical information to support her dismissal, there was insufficient evidence that appellant was actually dishonest when she failed to disclose the two hospitalizations on the questionnaire.

# *Selection Analyst Training!!!*

The Technical Training Program is offering the Selection Analyst Training Program (Spring 2000) in Sacramento.

The Selection Analyst Training Program offers a state-of-the-art, comprehensive instructional curriculum for the development of selection analysts. This program provides selection analysts, whether novice or experienced, the opportunity to increase and enhance their selection-related knowledge and skills. The classes have been designed to provide participants with fundamentally sound, legally defensible, innovative means of performing selection-related work. The Selection Analyst Training Program is comprised of the following classes:

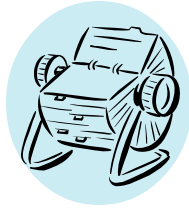
CLASS	DATE
<i>Statistics Made Easy for Personnel Selection</i>	2/8/00
<i>WRIPAC Job Analysis Course (2-day class)</i>	2/9-10/00
<i>Examination Planning</i>	2/18/00
<i>Professional Selection &amp; Test Validation</i>	2/29/00
<i>Supplemental Applications</i>	3/6/00
<i>Developing Interviews</i>	3/13/00
<i>Work Sample and Performance Tests</i>	3/21/00
<i>Developing and Using Written Examinations</i>	3/28/00
<i>Interpreting Item Analysis (half-day class)</i>	4/15/00
<i>Pass Point Setting</i>	4/16/00
<i>Scoring Models</i>	4/12/00

In addition to the hardcopy of the *Schedule of Classes* for July 1, 1999 – June 30, 2000, and our Web site at <http://www.spb.ca.gov/spbtrain/>, you can keep apprised of SPB activities, including Technical Training Program classes, at the SPB Outreach Events Calendar Web site at <http://exams.spb.ca.gov/spbcal.htm>.

Your suggestions and comments regarding the Technical Training Program are always welcome. To let us know how we can best meet your training needs, contact Bill Groome at (916) 653-1597 or Dema Pedretti at (916) 653-2085, TDD (916) 654-6336, Profs TS1A(PBWRG) or at our E-mail address [ttp@spb.ca.gov](mailto:ttp@spb.ca.gov).

# Professional Organizations for Assessment Professionals

The following list, which has been provided courtesy of the Test Validation and Construction (TV&C) Unit, presents a variety of professional organizations available to individuals in Northern California who are working in the field of assessment. These organizations hold regular meetings and/or conferences for their members, providing the most current topics and issues in the field of assessment. More information about each of these organizations can be obtained by utilizing the contact information specified under each organization's name. In addition to these resources, the TV&C Unit offers *TestTalk* sessions throughout the year as a networking opportunity for state-service selection professionals.



**International Personnel Management Association Assessment Council (IPMAAC)** 1617 Duke Street  
Alexandria, VA 22314 (703) 549-7100

**Western Region Intergovernmental Personnel Assessment Council (WRIPAC)** Bronda Silva,  
President Cooperative Personnel Services (916) 263-3624 ext. 3012 bronda@cps.ca.gov

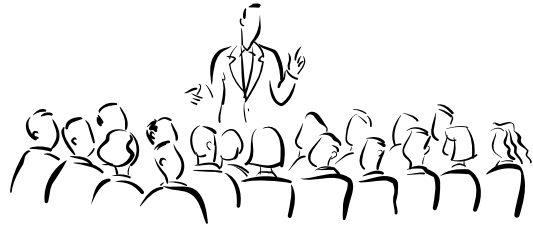
**International Personnel Management Association (IPMA)** 1617 Duke Street Alexandria, VA 22314  
(703) 549-7100 ipma@ipma-hr.org

**Personnel Testing Council of Northern California (PTC/NC)** Krysten Stepke, President Safeway Inc.  
(925) 944-4681 krysten.stepke@safeway.com

**IPMA – Northern California Chapter** Kathryn Broderick, President County of Marin (510) 499-6104  
kbroderick@marin.org

**Personnel Testing Council of Southern California (PTC/SC)** Bernadette Babasa  
Liz Walker bbabasa@sempra.com  
tomliz@worldnet.att.net

**IPMA – Sacramento – Motherlode Chapter**  
Stacey Haney, Co-President City of Roseville -  
Personnel Department (916) 774-5374  
shaney@roseville.ca.us  
Tino Guevara, Co-President Placer County Executive  
Office (530) 889-7332 tguevara@placer.ca.gov



## 2000 Regional On-Line Exam/Cert Users Group Meetings

SPB's On-Line Consultation/Training and Data Processing Support Services Teams are gearing up for the next round of meetings. We anticipate holding the meetings in April/May, and our tour includes stops in Southern California, San Francisco Bay area, and Sacramento.

Don't miss this opportunity to personally meet with the staff who conduct the training classes and maintain the On-line Programs. We're interested in hearing your ideas on how we can improve the system to better meet your needs, and sharing with you information about the latest system enhancements.

We will notify you regarding the specific meeting dates, times, and locations via ROPES, PROFs, and e-mail. In the interim, feel free to direct your suggestions, comments, or questions concerning the On-Line System to Scott Crouch at (916) 653-0567, Calnet 453-0567, e-mail scrouch@spb.ca.gov, or PROFs at PBSAC.

### Continued from page 10

minutes to complete the form and then mail it back promptly. (Make sure to mail your questionnaire back to the U.S. Census Bureau so census takers won't need to come to your door.)

For additional information, call the California Complete Count Campaign in Los Angeles, 323-965-2943 or Sacramento, 916-323-3301, or visit California's web site at [www.census.ca.gov](http://www.census.ca.gov). And for more information, visit the U.S. Census Bureau's web site at [www.census.gov](http://www.census.gov).



**Getting Technical...** The Test Validation and Construction Unit is pleased to announce its new publication series for selection analysts and assessment professionals – **Getting Technical with TV&C**. The goal of **Getting Technical...** is to discuss and explain some of the more technical aspects of assessment and measurement in an understandable and practical manner. The inaugural edition of **Getting Technical...** addresses the use of standardized scores. This exciting, **FREE** publication is available in hard-copy format by contacting any member of TV&C, or via the TV&C webpage. The next issue of **Getting Technical...** will be released this Spring.

**Upcoming Opportunities...** for Professional Development the Personnel Testing Council of Northern California (PTC/NC) will hold its annual conference in Oakland March 9-10, 2000. Contact Krysten Stepke, PTC/NC's current President, at (925) 944-4681 for more information.

Mike Willihnganz  
(916) 654-1672  
[mwillihnganz@spb.ca.gov](mailto:mwillihnganz@spb.ca.gov)

Shelley Langan  
(916) 654-8538  
[slangan@spb.ca.gov](mailto:slangan@spb.ca.gov)

Michelle Center  
(916) 653-1401  
[mcenter@spb.ca.gov](mailto:mcenter@spb.ca.gov)

Jessica Valdez  
(916) 653-1143  
[jvaldez@spb.ca.gov](mailto:jvaldez@spb.ca.gov)

**New Standards...** The American Educational Research Association, American Psychological Association, and National Council on Measurement in Education have just released the latest version of *Standards for Educational and Psychological Testing*, a reference containing professional standards for test development and use. Topics include changes in federal law and measurement trends affecting validity, testing individuals with disabilities or different linguistic backgrounds, and new types of tests as well as new uses of existing tests. The *Standards* can be purchased for \$31.95 (\$25.95 for members of AERA, APA, or NCME) plus \$3.50 S&H by calling 1(800)628-4094. TV&C staff continue to be available to assist you with a variety of testing and selection topics, so if you have questions, concerns, or issues with which we can assist, please don't hesitate to call upon us – we are only a phone call or e-mail message away!

## On-line Training



**Basic On-Line Cert Training** -is designed for individuals who have the responsibility to order and clear certifications AND who are familiar with the laws and rules of certification. The objective of this class is to teach participants how to use the on-line system to document list clearance transactions and how to use the on-line reports available to them. *March 15 - 17 / June 14 - 16*

**On-Line Cert Enhancement Training** - is designed to keep participants up-to-date on system enhancements and to share solutions to some of the more difficult certification issues. *March 10, 2000*

**On-Line Exam Training - Beginners Class** -is geared toward individuals new to the on-line exam system. *March 20 - 24 / May 8 - 12 / June 26 - 30, 2000*

For more information, contact the On-Line Training Coordinator, Katharine Cortenbach at 653-1517, or via e-mail [kcortenbach@spb.ca.gov](mailto:kcortenbach@spb.ca.gov).

# Whom Should I Contact?

State employees should contact their department's personnel office regarding all personnel matters. Departmental personnel and Equal Employment Opportunity staff may contact SPB staff as follows:

**CALNET Prefixes: 653 = 453 / 654 = 454 / 657 = 437    SPB FAX NUMBER: (916) 653-0927**

Subject	Contact Person	Phone	E-Mail
Appeals Information		653-0544	
Service Center	Eleanor Rios	653-7178	erios@spb.ca.gov
Access to On-Line Cert/Exam & Exam Svc	Rosemarie Lopez	653-0904	rlopez@spb.ca.gov
CEA Allocations, Pre-employment Drug Testing, Illegal Appointments, Non-hearing Board Calendar, Contracts, Resolutions	Patricia Embly	657-2389	pembly@spb.ca.gov
Civil Service Reform & Demonstration Projects	Carol Ong	653-1397	cong@spb.ca.gov
Data Processing Access & Scanning Services	Victor Mendoza	653-6234	vmendoza@spb.ca.gov
Equal Employment Opportunity, Goals and Timetables, LEAP, ADA/Reasonable Accom.	Ted Edwards Sandra Henzler	653-1276 653-1262	tedwards@spb.ca.gov shenzler@spb.ca.gov
Exam Planning, List Usage, Cert, Demotions, Separations, Probation Periods, Reemployment, Reinstatements, Transfers and Veterans Policies	Chris Sullivan	653-1827	csullivan@spb.ca.gov
Forms Management	Stacey Garcelon	653-0350	sgarcelon@spb.ca.gov
Mediation, for more info...	Elise Rose Bill Heal	653-1403 653-0443	erose@spb.ca.gov bheal@spb.ca.gov
Mediation, Gatekeepers to request:	Dorothy Smith Stacey Garcelon	653-1749 653-0350	dsmith@spb.ca.gov sgarcelon@spb.ca.gov
Miscellaneous Appointments, Layoff and Status Issues	Chris Sullivan (Temporarily)	653-1827	csullivan@spb.ca.gov
On-Line Printer Problems	Steve Brown	653-1484	sbrown@spb.ca.gov
Policy/Rulemaking/Manuals	Steve Unger	654-0842	sunger@spb.ca.gov
Policy & Selection Manuals Orders & Subscriptions	Mary Wilson	657-2654	mwilson@spb.ca.gov
Psychological Screening	Chris Perri	653-1258	cperri@spb.ca.gov
Quality Assurance	Martha Esmael	654-5815	mesmael@spb.ca.gov
Recruitment	Debbie Santos-Silva	653-7325	dsantos-silva@spb.ca.gov
Reimbursable Exam Services and Access to Item Bank or Exam Library	Daisy McKenzie	653-1232	dmckenzie@spb.ca.gov
Registration for On-Line Cert/Exam Training	Katharine Cortenbach	653-1517	kcortenbach@spb.ca.gov
Test Validation & Construction	Mike Willihnganz	654-1672	mwillihnganz@spb.ca.gov
Technical Training Program	Bill Groome	653-1597	bgroome@spb.ca.gov
Technical Training, to register...	Dema Pedretti	653-2085	dpedretti@spb.ca.gov
Website Maintenance	Linda MacCracken	653-0560	lmaccracken@spb.ca.gov

# Phrase Craze!

TV&C is pleased to announce its latest “puzzler.” This game tests your eye for identifying the sets of letters that go together to form a phrase pertaining to the assessment profession.

Submit your completed puzzles to TV&C to be entered in a drawing to win one of our fabulous prizes, again selected especially for you by the TV&C staff. All winners will be selected randomly from the pool of correct entries.

**PRIZES:** One free registration for a one-day SPB training course  
One free hour of consultative assistance with a TV&C staff member  
A free copy of TV&C's *Development & Use of Structured Employment Interviews* manual

Entries must be received by **February 25, 2000.**  
Drawing will be held the week of February 28, 2000.

Send your completed  entry to:

California State Personnel Board  
**Test Validation and Construction Unit**  
Phrase Craze Puzzle  
801 Capitol Mall, ms-37  
Sacramento, CA 95814

Be sure to complete the following and submit with your entry:

Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Department: \_\_\_\_\_

Department Address: \_\_\_\_\_

\_\_\_\_\_

(Flip page and play TV&C's )

# Phrase Craze!

To solve the Phrase Craze, place the letters contained in each column at the bottom part of the puzzle into the boxes directly above them to form words. The letters under each column of boxes are not necessarily in order, so it's up to you to determine in which box each letter goes. Each letter will be used only once. A black square indicates the end of a word. When the phrase has been correctly completed, you can read it from left to right, beginning at the top. Good Luck!

S	R	Y	O	T	N	S	E	S	N	A	E	E	T	I	O	G	B
K	U	S	C	U	O	D	P	S	E	D	T	C	T	I	J	E	
P	E	A	C	T	I	C		O	E	L	I	C	E	T	N	O	
		C		E	S			R			R	H			H	N	

Thank you for Puzzling with Us!